

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

URANIA ARCE and	:	CASE NO.
LEONARDO ARCE, w/h	:	
260 Christiana Road, Apt B-2	:	
New Castle, DE 19720	:	
Plaintiffs	:	
	:	
v.	:	
	:	
THOMAS A. FORD	:	
5532 Livingston Terrace, #201	:	
Oxon Hill, MD 20745	:	
and	:	
GREYHOUND LINES, INC	:	
427 West Sheridan	:	
Oklahoma City, OK 73102	:	
Defendants	:	

PLAINTIFFS' COMPLAINT

AND NOW, comes the plaintiffs, Urania Arce and Leonardo Arce, by and through their attorney, Thomas F. Sacchetta, Esquire, and respectfully represent as follows:

JURISDICTIONAL STATEMENT

1. This court has jurisdiction as the amount in controversy exceeds Seventy-five Thousand (\$75,000.00) Dollars, exclusive of interest and costs, and the defendant is of diverse citizenship. Plaintiff is a citizen of the State of Delaware, and the individual defendant resides in the State of Maryland and the corporate defendant is duly authorized to do business in the State of Delaware. The subject accident, out of which this claim arises, occurred in the State of Delaware.

PARTIES

2. Plaintiff, Urania Arce, is an adult individual residing at 260 Christiana Road, Apt.

B-2, New Castle, Delaware 19720 and is a citizen of the State of Delaware

3 Plaintiff, Leonardo Arce, is an adult individual residing at 260 Christiana Road, Apt. B-2, New Castle, Delaware 19720 and is a citizen of the State of Delaware.

4. Defendant, Thomas A. Ford, is an adult individual residing at 5532 Livingston Terrace, #201, Oxon Hill, Maryland 20745 and is a citizen of the State of Maryland.

5. Defendant, Greyhound Lines, Inc., is, upon information and belief, an incorporated business entity, unincorporated business entity, partnership or other legal entity, registered to do business in the State of Oklahoma with its registered office at 427 West Sheridan, Oklahoma City, Oklahoma 73102. Defendant regularly conducts business in the State of Delaware

6 Defendant, Thomas A. Ford, was an employee of defendant, Greyhound Lines, Inc. and at all times relevant hereto, was acting within the course and scope of his employment with defendant, Greyhound Lines, Inc.

VENUE

7. The facts and occurrences herein stated took place on or about December 10, 2004 at or near the intersection of Martin Luther King Blvd. and South Walnut Street, Wilmington, Delaware, thus making the U.S. District Court for the District of Delaware the proper venue.

FACTS

8. At the aforesaid time and place, plaintiff, Urania Arce was a passenger in a vehicle being driven by plaintiff, Leonardo Arce, which was stopped at the intersection of Martin Luther King Blvd. and South Walnut Street

9. At the aforesaid time and place, defendant, Thomas A. Ford was operating a

vehicle owned by defendant, Greyhound Lines, Inc , north on South Walnut Street.

10. At all times relevant hereto, defendant, Thomas A. Ford, was acting as the agent, servant, employee or workman of defendant, Greyhound Lines, Inc , therefore, defendant, Greyhound Lines, Inc , is vicariously liable for the actions of defendant, Thomas A. Ford, under theories of *respondeat superior*

11. At the aforesaid time and place, due to the negligence, recklessness, carelessness and intentional acts of defendant, Thomas A. Ford, plaintiffs' vehicle was struck in the rear by defendant's vehicle when defendant's vehicle skidded on the roadway, causing plaintiff to sustain severe personal injuries and other damages as more fully set forth herein.

12. The accident was caused by the negligence and recklessness of defendants and was in no way caused by plaintiff

COUNT I - NEGLIGENCE

Plaintiff, Urania Arce v. Defendant, Thomas A. Ford

13. Plaintiff hereby incorporates all preceding paragraphs and counts by reference as though fully set forth herein at length

14. The negligence, recklessness and carelessness of defendant, Thomas A. Ford, consisted of:

- (a) Operating the vehicle at an excessive rate of speed under the circumstances;
- (b) Failing to have the vehicle under proper and adequate control;
- (c) Failing to apply the brakes in time to avoid a collision;
- (d) Negligently applying the brakes;

(e) Failing to operate the vehicle in accordance with existing traffic conditions and traffic controls;

(f) Failing to drive at a speed and in a manner consistent with keeping the vehicle under control;

(g) Failing to keep a reasonable lookout;

(h) Operating the vehicle in a manner not consistent with the road and weather conditions prevailing at the time;

(i) Failing to have the vehicle under proper and adequate control and failing to keep the vehicle in the proper lane of travel;

(j) Otherwise operating said vehicle in a careless, reckless and negligent manner and in a manner violating the motor vehicle code of the State of Delaware;

(k) Operating the vehicle so as to create a dangerous situation for others;

(l) Failing to observe plaintiff's vehicle on the highway;

(m) Failing to keep a reasonable look-out for other vehicles lawfully on the road;

15. As a result of the aforesaid accident, plaintiff suffered severe injuries, which include, but are not limited to, cervical and lumbar injury including sprain and strain and radiculopathy, bumps, bruises, abrasions and lacerations about the body.

16. As a result of her injuries, plaintiff has undergone in the past and will in the future continue to undergo great pain and suffering.

17. As a result of her injuries, plaintiff has suffered a permanent disability and a permanent impairment of her earning power and capacity.

18. As a result of her injuries, plaintiff has suffered a permanent diminution of her ability to enjoy life and life's pleasures

19 As a result of her injuries, plaintiff has incurred reasonable and necessary medical expenses for which he is seeking reimbursement

20 As a result of her injuries, plaintiff will in the future incur medical expenses and income loss, and a claim is made therefor

WHEREFORE, plaintiff, Urania Arce, demands judgment against the defendants, jointly and severally, in an amount in excess of Seventy-five Thousand (\$75,000.00) Dollars, exclusive of interest and costs

COUNT II - NEGLIGENT ENTRUSTMENT

Plaintiff, Urania Arce v. Defendant, Greyhound Lines, Inc.

21 Plaintiff hereby incorporates all preceding paragraphs and counts by reference as though fully set forth herein at length.

22. Defendant, Greyhound Lines, Inc , was negligent, careless and reckless in the following regards:

(a) it entrusted, or by and through its agents, servants, workmen and employees allowed to be entrusted, its vehicle to defendant, Thomas A. Ford, and it knew or reasonably should have known that defendant, Thomas A. Ford, was not competent to drive such vehicle; and

(b) it allowed defendant, Thomas A. Ford, and, its agents, servants, workmen or employees to operate its vehicle, which vehicle was operated in a careless, reckless and/or negligent fashion as stated in Count I herein

WHEREFORE, plaintiff, Urania Arce, demands judgment against the defendants, jointly and severally, in an amount in excess of Seventy-five Thousand (\$75,000.00) Dollars, exclusive of interest and costs

COUNT III - LOSS OF CONSORTIUM

Plaintiff, Leonardo Arce v. Defendants, Thomas A. Ford and Greyhound Lines, Inc.

23. Plaintiff hereby incorporates all preceding paragraphs and counts by reference as though fully set forth herein at length

24. As a result of the aforementioned injuries, plaintiff, Leonardo Arce, has been, and may in the future be deprived of the care, companionship, consortium, and society of his wife, all of which will be to his great detriment, and claim is made therefore.

WHEREFORE, plaintiff, Urania Arce, demands judgment against the defendants, jointly and severally, in an amount in excess of Seventy-five Thousand (\$75,000.00) Dollars, exclusive of interest and costs

/s/ Thomas F. Sacchetta, Esquire
THOMAS F. SACCHETTA, ESQUIRE
Sacchetta & Baldino
308 East Second Street
Media, PA 19063
(610) 891-9212
Attorney for plaintiffs

/s/ Timothy M. Rafferty, Esquire
TIMOTHY RAFFERTY, ESQUIRE
P O. Box 609
Hockessin, DE 19707
(302) 239-2305
Attorney for plaintiffs

JS 44 (Rev 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Urania Arce and Leonard Arce, w/h

DEFENDANTS

Thomas A. Ford and Greyhound Lines, Inc.

(b) County of Residence of First Listed Plaintiff New Castle County
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

(c) Attorney's (Firm Name, Address, and Telephone Number) Thomas F. Sacchetta, Esq., 308 E. 2nd St., Media, PA 19063 & Timothy M. Rafferty, Esq., P.O. Box 609, Hockessin, DE 19707 Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|--------------------------------|--------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | PTF <input type="checkbox"/> 4 | DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Diversity

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMANDS In excess of \$75,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

/s/ Thomas F. Sacchetta, Esq.

/s/ Timothy M. Rafferty, Esq.

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG JUDGE _____

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 06 - 746

ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

12/7/06

(Date forms issued)

Stephen J. Zane

(Signature of Party or their Representative)

Stephen J. Zane

(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action